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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

MITCHELL GONZALEZ,

Plaintiff,

v.

BIOMET, INC.; BIOMET ORTHOPEDICS,
LLC; and BIOMET U.S.
RECONSTRUCTION, LLC,

Defendants.

Case No. 2:18-cv-01744-GMN-EJY

Honorable Gloria M. Navarro
Magistrate Judge Elayna J. Youchah.

**JOINT STIPULATION AND
~~PROPOSED~~ ORDER TO EXTEND
DISCOVERY DEADLINES TO
COMPLETE REMAINING
DEPOSITION**

Amended Complaint: February 7, 2014
Case Transferred: September 10, 2018

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1 Plaintiff Mitchell Gonzalez (“Plaintiff”), together with Defendants Biomet, Inc.;
2 Biomet Orthopedics, LLC and Biomet U.S. Reconstruction, LLC (collectively, “Biomet,”
3 and together with Plaintiff, the “Parties”), by and through their respective undersigned
4 counsel, respectfully move the Court for a limited extension of the current case-specific fact
5 discovery cutoff deadline of June 7, 2021, by approximately 45 days, due to unforeseen
6 difficulties in scheduling the deposition of Dr. Santo Yu, one of Plaintiff’s treating
7 physicians. The Parties do not intend this to affect any other pretrial deadlines. In support
8 of their stipulation, the Parties state as follows:

9 1. Biomet properly subpoenaed Dr. Yu and noticed his deposition for May 18,
10 2021;

11 2. Biomet paid Dr. Yu’s \$5,000 deposition fee ahead of his May 18th deposition,
12 *see Axelson v. Hartford Ins. Co. of Midwest*, No. 2:11-cv-01827-RCJ-GWF, 2013 WL
13 1261757, at *2 –3 (D. Nev. Mar. 26, 2013) (requiring payment of reasonable expert fees to
14 non-retained treating physicians);

15 3. The evening before the deposition, Plaintiff’s counsel contacted Biomet’s
16 counsel to request rescheduling for Dr. Yu’s deposition due to an unforeseen conflict;

17 4. As a professional courtesy, Biomet agreed to reschedule Dr. Yu’s deposition;

18 5. Biomet informed Dr. Yu’s office of the need to reschedule due to Plaintiff’s
19 unforeseen conflict;

20 6. Biomet, however, has not been able to obtain new available dates for Dr. Yu’s
21 deposition prior to the June 7, 2021 case-specific fact discovery cutoff, seemingly because
22 Dr. Yu’s office is demanding a second, full deposition fee, in addition to the fee Biomet
23 already paid, before providing new dates;

24 7. Accordingly, the Parties agree that a 45-day extension of the case-specific fact
25 discovery cutoff is warranted in order to allow them to complete the deposition of Dr. Yu;

26 8. This is the Parties’ sixth request for an extension of deadlines, although this
27 continuance request affects a single deadline only;

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9. This request does not affect any other pretrial dates or a trial date, as one has not yet been set; and

10. This request is not made for the purpose of undue delay.

IT IS HEREBY STIPULATED AND REQUESTED, by and between the Parties and their respective counsel, that the Court should continue the case-specific fact discovery cutoff as follows:

- Last date to complete case-specific fact discovery shall be continued from June 7, 2021 to **July 23, 2021**.

All other pretrial deadlines to remain the same.

Dated: June 4, 2021

FAEGRE DRINKER BIDDLE & REATH LLP

By: /s/ Theodore O'Reilly

TARIFA B. LADDON
THEODORE O'REILLY

Attorneys for Defendants
BIOMET, INC.; BIOMET ORTHOPEDICS,
LLC; AND BIOMET U.S.
RECONSTRUCTION, LLC

Dated: June 4, 2021

MORRIS LAW FIRM

By: /s/ *James A. Morris, Jr.*

JAMES A. MORRIS, JR.

Attorneys for Plaintiff
MITCHELL GONZALEZ

IT IS SO ORDERED:

DATED: June 4, 2021


Hon. Elayna J. Youchah
United States Magistrate Judge